

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

14 CV 1362 KMK PED

FEB 28 2014

PLAINTIFFS
JOSEPH BARBAGALLO

DEFENDANTS
METROPOLITAN LIFE INSURANCE COMPANY

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

Uscher, Quiat, Uscher & Russo, P.C.
433 Hackensack Avenue, 2nd Floor, Hackensack, NJ 07601
(201) 342-7100

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

ERISA 29 USC Sec. 1132(a)(2); 502 (a)(2); 29 USC Sec. 1132(a)(1)(B); 502 (a)(1)(B) Violation and Breach of Fiduciary Duty

Has a case, or proceeding, essentially the same been as this one, previously been filed in SDNY? No ☒ Yes ☐ Judge Previously Assigned

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date _____ & Case No. _____

IS THIS AN INTERNATIONAL ARBITRATION CASE? No ☒ Yes ☐

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

TORTS		ACTIONS UNDER STATUTES	
CONTRACT	PERSONAL INJURY	PERSONAL INJURY	FORFEITURE/PENALTY
[] 110 INSURANCE	[] 310 AIRPLANE	[] 362 PERSONAL INJURY -	[] 610 AGRICULTURE
[] 120 MARINE	[] 315 AIRPLANE PRODUCT	[] 365 PERSONAL INJURY	[] 620 OTHER FOOD &
[] 130 MILLER ACT	LIABILITY	[] 368 ASBESTOS PERSONAL	[] 625 DRUG RELATED
[] 140 NEGOTIABLE	[] 320 ASSAULT, LIBEL &	INJURY PRODUCT	SEIZURE OF
INSTRUMENT	SLANDER	LIABILITY	PROPERTY
[] 150 RECOVERY OF	[] 330 FEDERAL		21 USC 881
OVERPAYMENT &	EMPLOYERS'		
ENFORCEMENT	LIABILITY	PERSONAL PROPERTY	[] 630 LIQUOR LAWS
OF JUDGMENT	[] 340 MARINE		[] 640 RR & TRUCK
[] 151 MEDICARE ACT	[] 345 MARINE PRODUCT	[] 370 OTHER FRAUD	[] 650 AIRLINE REGS
[] 152 RECOVERY OF	LIABILITY	[] 371 TRUTH IN LENDING	[] 660 OCCUPATIONAL
DEFAULTED	[] 350 MOTOR VEHICLE	[] 380 OTHER PERSONAL	SAFETY/HEALTH
STUDENT LOANS	[] 355 MOTOR VEHICLE	PROPERTY DAMAGE	[] 690 OTHER
(EXCL VETERANS)	PRODUCT LIABILITY	PROPERTY DAMAGE	
[] 153 RECOVERY OF	[] 360 OTHER PERSONAL	PRODUCT LIABILITY	LABOR
OVERPAYMENT	INJURY		[] 710 FAIR LABOR
OF VETERANS'		PRISONER PETITIONS	[] 720 STANDARDS ACT
BENEFITS		[] 510 MOTIONS TO	LABOR/MGMT
[] 160 STOCKHOLDERS		VACATE SENTENCE	RELATIONS
SUITS		28 USC 2255	[] 730 LABOR/MGMT
[] 190 OTHER		[] 530 HABEAS CORPUS	REPORTING &
CONTRACT		[] 535 DEATH PENALTY	DISCLOSURE ACT
[] 195 CONTRACT		[] 540 MANDAMUS & OTHER	[] 740 RAILWAY LABOR ACT
PRODUCT			[] 790 OTHER LABOR
LIABILITY			LITIGATION
[] 196 FRANCHISE			[] 791 EMPL RET INC
			SECURITY ACT
REAL PROPERTY	ACTIONS UNDER STATUTES	PRISONER CIVIL RIGHTS	IMMIGRATION
[] 210 LAND	[] 441 VOTING	[] 550 CIVIL RIGHTS	[] 462 NATURALIZATION
[] 220 CONDEMNATION	[] 442 EMPLOYMENT	[] 555 PRISON CONDITION	APPLICATION
[] 230 FORECLOSURE	[] 443 HOUSING/		[] 463 HABEAS CORPUS-
RENT LEASE &	ACCOMMODATIONS		ALIEN DETAINEE
EJECTMENT	WELFARE		OTHER IMMIGRATION
[] 240 TORTS TO LAND	[] 444 AMERICANS WITH		ACTIONS
TORT PRODUCT	DISABILITIES -		
LIABILITY	EMPLOYMENT		
[] 245 ALL OTHER	[] 446 AMERICANS WITH		
REAL PROPERTY	DISABILITIES -OTHER		
	[] 440 OTHER CIVIL RIGHTS		
	(Non-Prisoner)		

405407007865

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?
IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☒ NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from (Specify District) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☐ a. all parties represented ☐ b. At least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

IF DIVERSITY, INDICATE
CITIZENSHIP BELOW.
(28 USC 1332, 1441)

- ☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY) ☐ 4 DIVERSITY

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

	PTF	DEF		PTF	DEF		PTF	DEF
CITIZEN OF THIS STATE	[]	[]	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	[]	[]	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	[]	[]
CITIZEN OF ANOTHER STATE	[]	[]	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[]	[]	FOREIGN NATION	[]	[]

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

43 Sycamore Road
Mahopac, NY 10541
Putnam County

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

200 Park Avenue
New York, NY 10166
New York County

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☒ WHITE PLAINS ☐ MANHATTAN
(DO NOT check either box if this a PRISONER PETITION/PRISONER/CIVIL RIGHTS COMPLAINT.)

DATE

RECEIPT #

SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

[] NO
☒ YES (DATE ADMITTED Mo. ____ Yr. 1982)
Attorney Bar Code # 8238

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)